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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

JOSEPH HALL, an individual,

Case No. 3:22-cv-74

PLAINTIFF,

COMPLAINT

v.

**CIVIL RIGHTS VIOLATIONS
(42 U.S.C. §§ 1983, 1985, 1986)**

THE CITY OF PORTLAND, a municipal
corporation; and **EDWARD TEVIS
WHEELER**, an individual,

DEMAND FOR JURY TRIAL

DEFENDANTS.

COMES NOW plaintiff, by and through his attorney of record, and alleges that at all
relevant times:

NATURE OF THE CASE

1.

The right to peaceable assembly and free speech are preserved in the United States
Constitution. Plaintiff supports said rights, and this suit does not seek to undermine the
message or messages from any groups who were engaged in demonstrations in the city of

Portland's downtown core throughout 2020 and 2021. However, the constitutional rights of peaceable assembly and free speech are not absolute and must be balanced against human health and safety. It is the duty of the City of Portland and the Commissioner of the Portland Police Bureau to preserve the public peace, prevent crime, protect rights of persons and property, and preserve order.

2.

This suit concerns the constitutional rights of plaintiff who was brutally beaten to the point of receiving life-threatening injuries by armed, so-called "demonstrators" and "activists" on May 6, 2021 near North Alberta Street and North Michigan Avenue in Portland, Oregon. This assault would not have happened but for the dereliction of duty by defendants, and their decision to decline to enforce public safety laws during Portland's ongoing demonstrations. Defendants' decisions indicated a tolerance for, and deliberate indifference toward illegal activity associated with demonstrations.

3.

The mayor and police commissioner, Defendant Ted Wheeler, showed his awareness of the substantial risk of physical harm that would probably result from the multiple months of demonstrations in a press statement on August 6th, 2020. Defendant Wheeler said that "[y]ou are not demonstrating—you are attempting to commit murder," in a news conference along with Portland Police Bureau Chief Chuck Lovell. During the press conference, Defendant Wheeler warned that the city anticipated more attacks in the immediate future. However, despite this recognition by Defendant Wheeler of the known risk of harm, defendants maintained their hands-off approach in responding to demonstrations by maintaining the police bureau's strategy

to limit police intervention in protests and demonstrations. The minimal police presence did not possess the adequate training to properly engage and coordinate with demonstrators or properly control crowds when tensions would predictably escalate. In the face of criticisms of the police bureau's use of force and crowd control tactics, defendants dug down further on their strategy of inconsistent and minimal applications of policing in known areas of demonstrations. More troubling, the police bureau and defendants broadcast their intentions to sideline themselves in advance.

4.

Defendants created a vacuum where peacekeeping efforts and criminal accountability should be. In its place, defendants constructed an environment of vigilantism that produced death and injury among the city's inhabitants, including the vicious assault upon plaintiff.

PARTIES

5.

Plaintiff has at all relevant times been a resident of Columbia County, Oregon.

6.

Defendant City of Portland (Defendant City) is a municipal corporation organized under the laws of the State of Oregon.

7.

Defendant Commissioner & Mayor Edward Tevis "Ted" Wheeler (Defendant Wheeler) was and is at all relevant times, both the commissioner of the Portland Police Bureau ("PPB") and mayor of the City of Portland, Oregon. He is being sued in both his individual and official capacities.

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JURISDICTION AND VENUE

8.

Jurisdiction is proper in this Court pursuant to 28 U.S. Code sec. 1331 because the Complaint raises federal constitutional questions, specifically the Fourteenth Amendment of the United States Constitution and federal questions pursuant to 42 U.S. Code sec. 1983, 1985, and 1986.

9.

Venue is proper in the U.S. District Court for the District of Oregon because all parties are domiciled in Oregon, the events detailed in this complaint occurred within the state of Oregon, and all defendants are residents of Oregon. Venue is proper in the Portland subdivision because all Defendants are residents of Multnomah County, Oregon, based on LR 3-2.

FACTUAL ALLEGATIONS

10.

On May 6, 2021, protesters associated with the Black Lives Matter (BLM) and ANTIFA movements demonstrated in multiple areas of Portland without permits.

11.

Protesters systematically blocked traffic. Many of the protesters openly carried firearms, including assault rifles. Many in the crowd even destroyed public and private property by smashing windows and slashing tires. Some even physically assaulted onlookers and other people passing by.

12.

911 calls were placed for PPB to intervene. Yet, due to defendants' policy of inaction, PPB failed to respond in any meaningful manner.

13.

At or around 1:00 PM, plaintiff was driving home from work in his red Ford pickup near North Alberta Street and North Michigan Avenue. Plaintiff had no prior knowledge that demonstrations were taking place there.

14.

Plaintiff arrived at the above-mentioned intersection, where protesters were stalling traffic, shouting slurs and insults to others outside their group, and openly carrying firearms as a means of intimidation. Protesters blocked plaintiff's path. Plaintiff brought his pickup to a stop.

15.

Armed protesters directed their shouts and slurs to plaintiff. Plaintiff opened his driver's side door, reached outside, and pointed to the direction he wanted to go. The protesters, without any justification, treated plaintiff as an active threat by aggressively pointing their firearms at him and threatening his life.

16.

Plaintiff warned the protesters to stop pointing their firearms at him, or he was going to draw his weapon for his own protection. After a short standoff, the protesters temporarily removed themselves from plaintiff's path, permitting him to leave.

17.

After plaintiff had driven several feet, plaintiff believed something had struck the rear of his pickup. He stopped his vehicle and exited to see what had happened. He was not sure if someone was injured by his pickup as it was driving away, or whether protesters were simply attempting to damage his pickup.

18.

Plaintiff walked to the rear of his pickup and, after confirming that no one had been struck by his pickup, walked back to his driver's side door with the intent to continue driving away. However, plaintiff's keys had been stolen out of the ignition.

19.

Trapped with nowhere to go, and seeing several firearms pointed at him, plaintiff drew his own weapon, a concealed handgun.

20.

The crowd then tackled plaintiff to the ground where they proceeded to maliciously beat and maim him.

FIRST CLAIM FOR RELIEF – All Defendants

(42 U.S.C. §§ 1983, 1985, 1986 – Fourteenth Amendment)

21.

Plaintiff reallages paragraphs 1-20 as if more fully pleaded herein.

22.

Under the Fourteenth Amendment, Plaintiff has the right to be free from unjustified intrusions upon his personal security and personal liberty.

23.

Defendants failed in their duty to protect the constitutional rights of people within the city's boundaries, including plaintiff, by:

- a) allowing demonstrators to openly assault its citizens, destroy property, and disrupt the city's peace and security on a grand and unprecedented scale through an overt policy of inaction and deliberate withholding of the proper administration of law enforcement;

- b) conspiring to create and employ a policy of inaction and deliberate withholding of the proper administration of law enforcement;
- c) emboldening lawbreaking demonstrators by habitually choosing to not disburse unlawful assemblies, riots, and violent mobs, or arrest the participants thereof;
- d) announcing an intent to withhold meaningful police presence in advance of demonstrations;
- e) encouraging the city-wide mayhem by publicly demonstrating with rioters, even as the rioters continued to destroy, loot, and assault all around them; and
- f) publicly voicing tolerance and understanding towards lawbreaking demonstrators.

24.

Defendants' unconstitutional conduct and dereliction of public duty caused the violation of plaintiff's substantive due process rights, the unjustified intrusion upon his personal security and personal liberty.

25.

As a direct consequence of defendants' actions and deliberate inaction, plaintiff suffered severe and debilitating injuries, including multiple rib fractures, a collapsed lung, collapsed vertebra, fractured left clavicle, and cuts and abrasions.

26.

Plaintiff's injuries have required medical treatment, costing an amount not to exceed \$100,000.00. Plaintiff will require future medical treatment in an amount not to exceed \$200,000.00.

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27.

Due to plaintiff's debilitating injuries, he has suffered lost wages in an amount not to exceed \$500,000.00.

28.

Due to the attack caused by defendants' wrongful and unconstitutional conduct, plaintiff has experienced pain, interruption in his ability to perform daily activities, interruption in his ability to enjoy recreational activities and to enjoy life, emotional distress, permanent impairment, and anxiety and worry over his condition and the event that caused it.

DEMAND FOR JURY TRIAL

29.

Plaintiff demands a jury trial on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against all defendants as follows:

1. For economic damages in an amount not to exceed \$800,000.00;
2. For noneconomic damages in an amount to be proved at trial;
3. For punitive damages that the jury finds appropriate;
4. For costs of suit and reasonable attorney fees, costs, and expert witness fees pursuant to 42 U.S.C. §§ 1988;
5. For pre-judgment and post-judgment interest, as appropriate, on all amounts due to plaintiff as a result of this action; and
6. For such other relief as the Court may deem just.

DATED this 14th day of January, 2022.

By s/ Jacob Johnstun _____
Jacob Johnstun, OSB #162146
Email: johnstun.injury.law@outlook.com
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Facsimile: 503-389-1548

CERTIFICATE OF SERVICE

I certify that, on the date indicated below, I caused a true copy of the foregoing to be faxed to:

DATED this day of , 20.

By s/ Jacob Johnstun
Jacob Johnstun, OSB #162146
Email: jjohnstun@johnstuninjurylaw.com
Telephone: 503-410-3572
Facsimile: 503-389-1548